



August 10, 2005

VIA ELECTRONIC FILING

Marlene M. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Meeting on behalf of Xspedius Communications, LLC in
CC Docket No. 01-92

Dear Ms. Dortch:

Pursuant to section 1.1206 of the Commission's rules, I hereby submit this notice of an *ex parte* meeting held on August 9, 2005 between Xspedius Communications, LLC ("Xspedius") and representatives of the Commission's Wireline Competition Bureau and Wireless Telecommunications Bureau. Attendees for Xspedius included James C. Falvey and the undersigned. Commission Staff attendees included Tamara Preiss, Jay Atkinson, Chris Barnakov (by telephone), Randy Clarke, Nese Guendelsberger, Steve Morris, and Peter Trachtenberg. During the meeting, I distributed the attached presentation regarding Xspedius's experience negotiating interconnection agreements with wireless carriers. This presentation served as the basis for discussion. If you have any additional questions, please contact the undersigned.

Sincerely,

Michael B. Hazzard

Counsel for Xspedius Communications, LLC

Attachment

cc: Tamara Preiss (via electronic mail)
Jay Atkinson (via electronic mail)
Chris Barnakov (via electronic mail)
Randy Clarke (via electronic mail)
Nese Guendelsberger (via electronic mail)
Steve Morris (via electronic mail)
Peter Trachtenberg (via electronic mail)

Xspedius Communications, LLC

Wireless Termination Issues

CC Docket No. 01-92

August 9, 2005

Xspedius's Approach

- Establish reasonable intraMTA traffic termination arrangements with CMRS carriers
- Obtain compensation for terminating intraMTA CMRS traffic at relevant ILEC's section 251(b)(5) termination rate
- Use existing method (i.e., NPA-NXX comparison) as proxy for making jurisdictional determinations

The Basic Problem

- Under *T-Mobile*, CMRS providers have no incentive to enter agreements with CLECs
- CLEC ability to tariff intraMTA rates limited if not altogether eliminated (e.g., Missouri)
- The rules provide no means for CLECs to bring CMRS providers to negotiating table
- As a result, CLECs are effectively forced to provide free service to many CMRS providers

The Basic Problem

- The FCC's rule:

§ 20.11 Interconnection to facilities of local exchange carriers.

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- (e) **Local exchange carriers** may not impose compensation obligations for traffic not subject to access charges upon commercial mobile radio service providers pursuant to tariffs.
- (f) An **incumbent local exchange carrier** may request interconnection from a commercial mobile radio service provider and invoke the negotiation and arbitration procedures contained in section 252 of the Act. A commercial mobile radio service provider receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission. Once a request for interconnection is made, the interim transport and termination pricing described in § 51.715 shall apply.

- Many CMRS carriers are using this disparity to slow roll negotiations with CLECs

CMRS Slow Roll Tactics

- Many (but not all) CMRS providers are employing slow roll negotiation tactics
 - Refuse to respond to contract proposals
 - Refuse to agree to any rate above \$0.0007 (*ISP Remand Order* optional ILEC rate), even though 251(b)(5) rate is higher
 - Refuse to use NPA/NXX records for establishing jurisdiction of call
 - Attempt to require CLEC to purchase additional records from ILEC for billing
 - Refuse to pay for any service prior to entering an agreement

CLECs Have Limited Options

- In cases where no agreement exists with a CMRS carrier, CLECs have limited options for intraMTA traffic:
 - Provide termination service for free (status quo)?
 - Block traffic?
 - Attempt to utilize a federal or state tariff?
 - File a complaint?

FCC Relief

- Clarify that CLECs, as well as ILECs, can invoke 20.11(e) to:
 - Utilize 252 process
 - Obtain interim compensation
- Otherwise clarify that CLECs may utilize tariffs for intraMTA traffic so long as rates are no higher than relevant ILEC 251(b)(5) rate unless/until agreement established
- Otherwise clarify that CLECs need not provide intraMTA CMRS termination service unless/until such time agreement established